

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
NEW BERN DIVISION**

IN RE:

**KINGSTON TOBACCO COMPANY,
INC.,
DEBTOR**

**CHAPTER 11
CASE NO.: 12-05532-8-RDD**

VIRGINIA BRANDS, L.L.C.,)	
)	
Plaintiff,)	
)	
vs.)	Adversary Proceeding No.
)	
KINGSTON TOBACCO COMPANY, INC.,)	
)	
Defendants)	
)	

**NOTICE OF REMOVAL OF PENDING FEDERAL COURT CIVIL ACTION TO
UNITED STATES BANKRUPTCY COURT,
EASTERN DISTRICT OF NORTH CAROLINA**

This NOTICE OF REMOVAL is filed pursuant to 28 U.S.C. §§ 1452(a), 1334(b), and 157, and Bankruptcy Rule 9027. In connection with this Notice of Removal, the Debtor, Kingston Tobacco Company, Inc. respectfully shows the court:

1. The Debtor, Kingston Tobacco Company, Inc. filed a voluntary petition under Chapter 7 of the Bankruptcy Code on July 31, 2012. The Chapter 7 is now pending in the United States Bankruptcy Court for the Eastern District of North Carolina, Case No. 12-05532-8-RDD.

2. The bankruptcy court has jurisdiction over the Chapter 7 case pursuant to 28 U.S.C. §§ 1334(b) and 157(a) and the General Order of reference entered in the Eastern District of North Carolina on August 3, 1984, referring all bankruptcy cases to the bankruptcy court.

3. At the time of the commencement of the Chapter 7 case, a federal court civil action (the "Civil Action"), *Virginia Brands, L.L.C. v. Kingston Tobacco Company, Inc.*, Case Number 4:10CV00009-JLK-mfu, was pending in the United States District Court for the Western Division of Virginia, Roanoke Division. The Civil Action is still pending in the United States District Court (until the filing of this Notice of Removal with the bankruptcy court and the filing of a copy of this Notice of Removal with the clerk of the United States District Court).

4. The Civil Action is a civil action other than a proceeding before the United States Tax Court and is not a civil action by a governmental unit to enforce such governmental unit's police or regulatory power.

5. The Civil Action involves and includes a Complaint by Virginia Brands, L.L.C. ("Virginia Brands") against the Debtor seeking recovery for unpaid cigarettes and unpaid tobacco escrow contributions that were owed to the states of North Carolina, Virginia and South Carolina. In the Civil Action, Virginia Brands obtained a judgment against the Debtor in the total amount of \$5,257,644.92 plus interest and court costs (the "Judgment"). Following the entry of the Judgment, Virginia Brands filed a motion in the Civil Action to pierce the corporate veil of the Debtor and hold the Debtor's corporate officers personally liable for the Judgment.

6. The Civil Action involves core proceedings that "arise under title 11" within the meaning of 28 U.S.C. §§ 157(b) and 1334(b).

7. Removal of the Civil Action to the bankruptcy court is authorized by 28 U.S.C. §§1452, 1334, and 157, and the General Order of Reference in the District Court for the Eastern District of North Carolina, referring bankruptcy matters to the United States Bankruptcy Court.

8. The Civil Action was stayed as to the Debtor under § 362 of the Bankruptcy Code when the Chapter 7 case was filed. The stay has not been terminated and is still in effect. Thus, this Notice of Removal is filed within the time period required by Bankruptcy Rule 9027(a)(2)(A).

9. This Notice of Removal is accompanied by **Exhibit A**, copies of the pleadings and process in the Civil Action in accordance with Rule 9027(a)(1) of the Federal Rules of Bankruptcy Procedure. If additional documents relating to the Civil Action are required, the Debtor will submit such documents.

WHEREFORE, the Debtor files this Notice of Removal effectuating the following:

1. Removal of the Civil Action from the United States District Court for the Western Division of Virginia, Roanoke Division, to the U.S. Bankruptcy Court for the Eastern District of North Carolina; and,

2. The parties to the State Court Civil Action shall proceed no further in the United States District Court for the Western Division of Virginia, unless the Civil Action is remanded by the U.S. Bankruptcy Court to the United States District Court for the Western Division of Virginia.

DATED: 9/11/12

s/Trawick H. Stubbs, Jr.
TRAWICK H. STUBBS, JR.
N.C. State Bar #4221
STUBBS & PERDUE, P.A.
Post Office Box 1654
New Bern, NC 28563-1654
(252) 633-2700
(252) 633-9600 facsimile
Email: tstubbs@stubbsperdue.com

CERTIFICATE OF SERVICE

I, Trawick H. Stubbs, Jr., Post Office Box 1654, New Bern, North Carolina 28563, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on the date below I served copies of the foregoing "Notice of Removal of Pending Federal Court Civil Action to United States Bankruptcy Court, Eastern District of North Carolina" on the parties listed below, by depositing a copy of the same in the United States mail bearing sufficient postage or electronically as indicated;

I certify under penalty of perjury that the foregoing is true and correct.

This the 11th day of September, 2012.

s/Trawick H. Stubbs, Jr.
TRAWICK H. STUBBS, JR.
N.C. State Bar #4221
STUBBS & PERDUE, P.A.
Post Office Box 1654
New Bern, NC 28563-1654
(252) 633-2700
(252) 633-9600 facsimile
Email: tstubbs@stubbsperdue.com

Bankruptcy Administrator (via CM/ECF)

John Bircher (via CM/ECF)

Virginia Brands, L.L.C. (via U.S. Mail and email)
c/o Darren Marshall Hart, Esq.
Hart & Assoc., P.C.
9025 Forest Hill Avenue, First Floor
Richmond, VA 23235
Info@Richmond-Law.com

Gary H. Clemmons, Esq. (via CM/ECF)
Chesnutt, Clemmons & Peacock, P.A.
225-C Broad Street
PO Box 12530
New Bern, NC 28561

Joseph Nanney, Jr., Esq. (via U.S. Mail and email)
Meynardie & Manney, PLLC
333 Fayetteville Street, Suite 500

Raleigh, NC 27601
joe@mnlaw-nc.com

Kingston Tobacco Company, Inc. (via email)